

BEFORE THE DIVISION OF MEDICAL QUALITY  
BOARD OF MEDICAL QUALITY ASSURANCE  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the Matter of the Accusation	)	
Against:	)	
	)	NO. D-2072
DAVID DIXON, M.D.	)	
Certificate No. G-5251	)	L-15318
	)	
Respondent.	)	

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DECISION

The attached Proposed Decision of the Administrative Law Judge is hereby adopted by the Division of Medical Quality as its Decision in the above-entitled matter.

This Decision shall become effective on December 21, 1978.

IT IS SO ORDERED November 21, 1978.

DIVISION OF MEDICAL QUALITY  
BOARD OF MEDICAL QUALITY ASSURANCE

  
MICHAEL J. CARELIA  
Secretary-Treasurer

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OF THE BOARD OF MEDICAL QUALITY ASSURANCE  
DEPARTMENT OF CONSUMER AFFAIRS  
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In the Matter of the Accusation )	
Against: )	
	) No. D-2072
DAVID DIXON, M.D. )	
License No. G-5251, )	
	) L-15318
Respondent. )	
_____ )	

PROPOSED DECISION

This matter came on regularly for hearing before Marilyn L. Nelson, Administrative Law Judge of the Office of Administrative Hearings, at Riverside, California, on June 19, 1978, at the hour of 10:00 a.m., and June 20, 1978, at the hour of 9:00 a.m. Lawrence C. Kuperman, Deputy Attorney General, represented the complainant. The respondent appeared in person and was represented by Paul A. McCracken, Attorney at Law. The matter was consolidated for purposes of hearing with the matter of the Accusation against David George Dixon, M.D., Provider No. OOG 52510, et al., before the Department of Health of the State of California, Accusation No. 77-0044.

Pursuant to motion of the complainant, the Accusation was amended as follows: (1) The word "violating" was stricken and the words "an attempt to violate" were substituted, and the number "469" was stricken and the number "496" was substituted in the following places: paragraph 9, line 26, page 2; paragraph 18, line 6, page 4; paragraph 19, line 12, page 4. (2) The following paragraphs were stricken in their entirety: paragraphs 13, 14 and 16 on page 3; paragraph 20 on page 4.

Submission of the matter was deferred to allow the parties to submit written argument. Respondent's argument was received on July 11, 1978, and is marked as Exhibit H for identification. Complainant's response was received on August 1, 1978, and is marked as Exhibit 21 for identification.

Oral and documentary evidence, as well as evidence by stipulation, having been received, and the matter having been submitted on August 1, 1978, the Administrative Law Judge finds the following facts:

I

Robert Rowland made the Accusation in his official capacity as Executive Director of the Board of Medical Quality Assurance, State of California.

II

The respondent has been issued Physician and Surgeon Certificate No. G-5251 by the Board, and was, and is now licensed to practice medicine and surgery in the State of California.

III

On August 13, 1976, respondent was convicted by a jury of four counts, two felony and two misdemeanor, of an attempt to violate Penal Code section 496 (receiving and concealing stolen property), a crime involving moral turpitude. Respondent was placed on probation for five years on condition, inter alia, that he pay a fine of \$10,000 plus penalty assessment of \$2,500. The Court of Appeal of the State of California, Fourth District, Second Division, modified the fine to \$5,500 plus penalty assessment of \$1,375.

IV

Respondent has treated C [REDACTED] B [REDACTED] for obesity for a number of years and the evidence established that Eskatrol is prescribed for such treatment. On January 15, February 3, and February 19, 1976, respondent prescribed 30 Eskatrol capsules for C [REDACTED] B [REDACTED]. The preponderance of the evidence failed to establish that the prescriptions written on January 15 and February 3, 1976, were written without any medical indication therefor and without conducting a prior good faith examination. Respondent has, however, admitted that he wrote the prescription on February 19, 1976 in a weak moment while he was preoccupied with other matters, indicating that the prescription on that date was written without any medical indication therefor and without conducting a prior good faith examination.

V

At all times mentioned herein, Eskatrol was a controlled substance as defined by Health and Safety Code section 11055(d)(1) and a dangerous drug as defined by Business and Professions Code section 4211.

VI

Respondent's criminal conviction arose out of his purchase of a television set, six pistols and two rifles, and three pairs of men's shoes from C [REDACTED] B [REDACTED] who was acting in an undercover capacity for the Riverside County Sheriff's Department. C [REDACTED] B [REDACTED] had been a patient of respondent for approximately 16 years. Said property was represented by B [REDACTED] to respondent to be

stolen but in fact it had either been purchased by or belonged to governmental agencies. Respondent paid \$50 for the television set and \$200 for the guns. He agreed to offset B██████'s medical bills in connection with the shoes. B██████ initiated the conversations in regard to the television set and the guns, but respondent requested B██████ to obtain the shoes.

#### VII

In asking for prescriptions for Eskatrol from respondent, B██████ was acting as an undercover agent for the Riverside County Sheriff's Department and the California Drug Enforcement Administration. The evidence failed to establish, however, that respondent was entrapped in any manner into writing the prescription.

#### VIII

Respondent has practiced within the City of Corona since 1959. In addition, he is the contract physician for the United States Navy at its Norco facility, a contract physician for obstetrical patients for the State of California at the Norco Rehabilitation Center, the contract student physician for Loma Linda University, and the industrial physician for several major companies. He has been involved in many community activities, giving free or minimal charge medical examinations. He has an extensive family practice where he maintains office hours seven days a week. Many of his patients are Medi-Cal recipients who are Spanish speaking. He is highly regarded in the community, and is considered a humanitarian for his services to the poor and needy irrespective of payment.

His professional reputation as a doctor is excellent. He is, however, considered a maverick by some of his colleagues. He has suffered no other conviction nor any other disciplinary action. He has been satisfactorily complying with the terms of his probation. Respondent admits that he made a mistake in committing the acts of misconduct and is remorseful.

\* \* \* \* \*

Pursuant to the foregoing findings of fact, the Administrative Law Judge makes the following determination of issues:

#### I

Respondent's defense of entrapment was not established.

#### II

Grounds exist to suspend or revoke respondent's certificate pursuant to sections 2360 and 2361 of the Business

and Professions Code in that he has committed acts constituting unprofessional conduct as follows:

1. Respondent violated sections 2361(f) and 2383 of the Business and Professions Code in that the crime of which he has been convicted is a crime involving moral turpitude.

2. Respondent violated section 2399.5 of the Business and Professions Code by reason of paragraphs IV, V and VII of the findings of fact hereinabove.

### III

Grounds exist to suspend or revoke respondent's certificate pursuant to section 490 of the Business and Professions Code in that the crime of which he has been convicted, under the circumstances herein involved, is substantially related to the qualifications, functions or duties of the practice of medicine.

\* \* \* \* \*

WHEREFORE, THE FOLLOWING ORDER is hereby made:

### I

Certificate No. G-5251 issued to respondent David Dixon, M.D. is revoked pursuant to Determination of Issues numbers II-1. and 2. and III, separately and for all of them; however, each order of revocation is stayed and respondent is placed on probation for five (5) years upon the following terms and conditions:

1. Respondent shall obey all federal, state and local laws, and all laws, rules and regulations pertaining to the practice of medicine in California.

2. Respondent must submit quarterly declarations under penalty of perjury on forms provided by the Division, stating whether there has been compliance with all the conditions of probation.

3. Respondent must comply with the Division's probation surveillance program.

4. Respondent must appear in person for interviews with the Division's medical consultant upon request at various intervals and with reasonable notice.

5. In the event respondent should leave California to reside or to practice outside the State, respondent must notify the Division of the dates of departure and return. Periods of residence or practice outside of California will not apply to the reduction of this probationary period.

6. Within thirty (30) days of the effective date of this decision, respondent must submit to the Division for its prior approval, an education course related to prescribing, dispensing or furnishing dangerous drugs as defined in section 4211 of the Business and Professions Code. Respondent must enroll and successfully complete this course within the first year of probation.

7. a. Within 30 days of the effective date of this decision, respondent must submit to the Division for its prior approval the name and qualifications of a psychiatrist of his choice.

b. Within 60 days of the effective date of this decision, respondent must undergo a psychiatric examination by the approved psychiatrist who shall furnish a report to the Division determining whether respondent requires psychiatric treatment to practice medicine safely. Respondent must undergo treatment if so recommended. During the period of psychiatric treatment, respondent must have the approved psychiatrist furnish semi-annual progress reports to the Division.

8. Respondent shall not accept payments in kind for the medical bills of his patients.

If respondent violates probation in any respect, the Division, after giving respondent notice and the opportunity to be heard, may move to set aside the stay order and impose the revocation of the respondent's certificate.

Upon successful completion of probation, respondent's certificate shall be fully restored.

## II

The Accusation is dismissed as to paragraphs 13, 14, 16 and 20 thereof.

I hereby submit the foregoing which constitutes my Proposed Decision in the above-entitled matter as a result of the hearing had before me on the above dates at Riverside, California, and recommend its adoption as the decision of the Division of Medical Quality, Board of Medical Quality Assurance.

DATED: AUG 28 1978

*Marilyn L. Nelson*

MARILYN L. NELSON,  
Administrative Law Judge  
Office of Administrative Hearings

MLN:jm

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Attorneys for Complainant

BEFORE THE DIVISION OF MEDICAL QUALITY  
OF THE BOARD OF MEDICAL QUALITY ASSURANCE

DEPARTMENT OF CONSUMER AFFAIRS

STATE OF CALIFORNIA

In the Matter of the Accusation  
Against:

DAVID DIXON, M.D.  
License No. G-5251

Respondent.

No. D-2072

ACCUSATION

Complainant, Robert Rowland, alleges:

1. He is the Executive Director of the Board of Medical  
Quality Assurance, State of California (hereinafter "Board")  
and makes this Accusation in his official capacity.

2. The respondent has been issued Physician and  
Surgeon Certificate No. G-5251 by the Board, and was, and is  
now licensed to practice medicine and surgery in the State of  
California.

3. At all times mentioned herein, sections 2360 and  
2361 of the Business and Professions Code, authorized, and do  
authorize, the Board to take action against the holder of a  
Physician's and Surgeon's Certificate who is guilty of  
unprofessional conduct.

4. Business and Professions Code section 2361(f)  
provides that the commission of any act involving moral

1 turpitude, dishonesty, or corruption, whether the act is  
2 committed in the course of the individual's activities as a  
3 certificate holder, or otherwise, or whether the act is a  
4 felony or a misdemeanor, constitutes unprofessional conduct.

5 5. Section 2383 provides that the conviction of a  
6 felony, or any offense, misdemeanor, or felony involving moral  
7 turpitude constitutes unprofessional conduct.

8 6. Section 490 of the Business and Professions Code  
9 provides that a Board may suspend or revoke a license on the  
10 ground that the licensee has been convicted of a crime, if the  
11 crime is substantially related to the qualifications, functions  
12 or duties of the business or profession for which the license  
13 was issued.

14 7. Business and Professions Code section 2391 provides  
15 in relevant part that prescribing any dangerous drug as  
16 described in Business and Professions Code section 4211 to  
17 a habitue or addict constitutes unprofessional conduct.

18 8. Business and Professions Code section 2399.5  
19 provides in relevant part that the prescribing, dispensing or  
20 furnishing of dangerous drugs as defined in section 4211 of  
21 the Business and Professions Code without a good faith prior  
22 examination and medical indication therefor, constitutes  
23 unprofessional conduct.

24 9. On or about August 13, 1976, Respondent was  
25 convicted by a jury of four (4) counts, two (2) felony and  
26 two (2) misdemeanor, of violating Penal Code section 469  
27 (receiving and concealing stolen property), a crime involving  
28 moral turpitude.

29 10. On or about January 15, 1976, Respondent prescribed  
30 for Clayton Becerra 30 Eskatrol capsules, without any medical  
31 indication for the Eskatrol, and without conducting a prior



1 good faith examination.

2 11. On or about February 3, 1976, Respondent  
3 prescribed for C [REDACTED] B [REDACTED] 30 Eskatrol capsules without  
4 any medical indication for the Eskatrol and without conducting  
5 a prior good faith examination.

6 12. On or about February 19, 1976, Respondent  
7 prescribed for C [REDACTED] B [REDACTED] Eskatrol capsules without  
8 any medical indication for the Eskatrol and without conducting  
9 a prior good faith examination.

10 13. On or about January 14, 1976, Respondent  
11 prescribed 60 Valium capsules for P [REDACTED] M [REDACTED], who  
12 represented to Respondent that he was a habitual user of,  
13 and addicted to heroin, and was in fact, a habitual user of,  
14 and was addicted to, heroin.

15 14. On or about January 16, 1976, Respondent  
16 prescribed 60 Valium capsules for P [REDACTED] M [REDACTED], who  
17 represented to Respondent that he was a habitual user of,  
18 and addicted to heroin, and was in fact, a habitual user of,  
19 and was addicted to, heroin.

20 15. At all times mentioned herein, Eskatrol was a  
21 controlled substance as defined by Health and Safety Code  
22 section 11055 and a dangerous drug as defined by Business and  
23 Professions Code section 4211.

24 16. At all times mentioned herein, Valium was a  
25 dangerous drug as defined by Business and Professions Code  
26 section 4211.

27 17. The license of Respondent is subject to  
28 disciplinary action pursuant to Business and Professions Code  
29 section 2383 in that Respondent was convicted of a felony,  
30 as more particularly alleged in paragraph 9 hereinabove.

31 18. The license of Respondent is subject to

1 disciplinary action pursuant to Business and Professions Code  
2 section 490 in that Respondent was convicted of a crime that  
3 is substantially related to the qualifications, functions,  
4 or duties of the practice of medicine in that Respondent was  
5 convicted of violating Penal Code section 469 (receiving  
6 stolen property), as more particularly described in paragraph  
7 9 hereinabove.

8 19. The license of Respondent is subject to  
9 disciplinary action pursuant to Business and Professions Code  
10 section 2361(f) in that Respondent committed acts involving  
11 moral turpitude, dishonesty, and corruption in that Respondent  
12 was convicted of violating Penal Code section 469 (receiving  
13 and concealing stolen property), as more particularly alleged  
14 in paragraph 9 hereinabove.

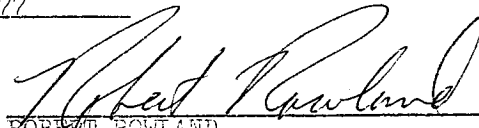
15 20. The license of Respondent is subject to  
16 disciplinary action pursuant to Business and Professions Code  
17 section 2391 in that Respondent prescribed a dangerous drug  
18 as described in Business and Professions Code section 4211 to  
19 a habitue or addict as more particularly alleged in paragraphs  
20 13, 14 and 16 hereinabove.

21 21. The license of Respondent is subject to disciplin-  
22 ary action pursuant to Business and Professions Code section  
23 2399.5 in that Respondent prescribed drugs as defined in  
24 Business and Professions Code section 4211 without a good  
25 faith prior examination and medical indication therefor as  
26 more particularly alleged in paragraphs 10 through 12 herein-  
27 above.

28 WHEREFORE, Complainant requests that the Division of  
29 Medical Quality hold a hearing on the matters alleged, and  
30 following said hearing, take such action as provided in  
31 section 2372 of the Business and Professions Code, and take

such other further action as may be proper.

DATED: September 16, 1977



ROBERT ROWLAND  
Executive Director  
Board of Medical Quality Assurance  
Complainant